

ESTTA Tracking number: **ESTTA582658**Filing date: **01/20/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	CVB Inc
Granted to Date of previous extension	01/22/2014
Address	1189 W 1700 N Bldg B Logan, UT 84321 UNITED STATES

Correspondence information	CVB Inc 1189 W 1700 N Bldg B Logan, UT 84321 UNITED STATES preston@malouffinelinens.com Phone:(435) 512-4893
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Applicant Information

Application No	85817528	Publication date	09/24/2013
Opposition Filing Date	01/20/2014	Opposition Period Ends	01/22/2014
Applicant	JLJ HOME FURNISHINGS LLC 4776 CHARLOTTE HWY LANCASTER, SC 29720 NEW CALEDONIA		

Goods/Services Affected by Opposition

Class 024. First Use: 2011/08/09 First Use In Commerce: 2011/08/09
All goods and services in the class are opposed, namely: SHEET SETS, FITTED BED SHEETS, FLAT BEDSHEETS, PILLOW CASES, MATTRESS PADS, MATTRESS COVERS, BED SKIRT, AND COMFORTERS

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1937180	Application Date	12/06/1994
Registration Date	11/21/1995	Foreign Priority Date	NONE
Word Mark	SLEEP TIGHT		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 020. First use: First Use: 1994/09/16 First Use In Commerce: 1994/10/24 non-slip surface pad insertable between the mattress and boxspring for preventing slipping of the mattress on the boxspring

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SLEEP TITE		
Goods/Services	bedding protection products for mattress and pillows including mattress covers, mattress pads, and pillowcases		

Attachments	sleep tite opposition.pdf(203566 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Preston P. Frischknecht/
Name	CVB Inc
Date	01/20/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application **Serial No. 85817528**

For the mark “**THE BETTER FITTING SHEET. SLEEP TITE**”

Published in the Official Gazette on September 14, 2013

CVB Inc. dba Malouf Fine Linens

Opposer,

v.

JLJ Home Furnishings LLC

Applicant.

NOTICE OF OPPOSITION

Opposer, CVB Inc., dba Malouf Fine Linens (“Malouf”), a Utah corporation having a principal place of business at 1189 W 1700 N, Bldg. B, Logan, Utah 84321, believes that it and others will be damaged by registration of the mark shown in the above-identified application, and thereby opposes that application for the goods in International Class 24, alleging as grounds for opposition that:

1. As is evidenced by the publication of the mark “THE BETTER FITTING SHEET. SLEEP TITE”—which is a stylized mark bearing “**SLEEP TITE**” as its central and prominent element—in the Official Gazette in the September 14, 2013 issue, Applicant seeks to register the trademark for:

Sheet sets, fitted bed sheets, flat bed sheets, pillow cases, mattress pads, mattress covers, bed skirt, and comforters.

Applicant's application was **filed on January 11, 2013** under Section 1(a) of the Trademark Act with an alleged first use and **first use in commerce date of August 9, 2011**.

2. Malouf is an award winning, top-selling retailer of an expansive line of bedding products including sheets, duvets, comforters, mattresses, mattress toppers, mattress pads, mattress protectors, pillows, pillow covers, beds and bed frames. Malouf markets and sells its products nationally and internationally and showcases them online, in major industry tradeshow, and through brick and mortar outlets.

3. Malouf is the owner of a U.S. trademark registration for "**SLEEP TIGHT**", Reg. No. 1937180, for a non-slip surface pad insertable between the mattress and boxspring for preventing slipping of the mattress on the boxspring. This mark was **registered on November 21, 1995**.

4. Malouf is also the owner of the U.S. common law trademark "**SLEEP TITE**", for bedding protection products for mattress and pillows including mattress covers, mattress pads, and pillowcases. Malouf **began using this mark on February 1, 2010**.

5. Malouf's "SLEEP TIGHT" and "SLEEP TITE" marks have been used since 1995 and early 2010, respectively. Products used in connection with the marks have been offered, provided, marketed, and promoted both nationally and internationally, including as top-selling products on *www.Amazon.com*. As a result, Malouf's marks have become famous nationwide and have otherwise acquired distinctiveness.

6. **There is no issue as to priority.** Malouf commenced use of "SLEEP TIGHT" and "SLEEP TITE" marks prior to Applicant's filing date and asserted use dates.

7. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that **Applicant's mark so resembles**

Malouf's marks previously used in the U.S., and not abandoned, as to be likely to cause confusion or mistake or to deceive under the Trademark Act, Section 2(d), 15 U.S.C. § 1052(d), thereby causing loss, damage, and injury to Malouf and the purchasing public, and to dilute the value and source identifying power of Malouf's marks, and to disparage and falsely suggest a connection with Malouf, thereby causing loss, damage, and injury to Malouf and the purchasing public.

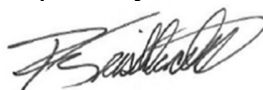
8. WHEREFORE, Malouf prays that this Notice of Opposition be sustained, that Applicant's Trademark Application Serial No. **85817528** be rejected, and that Applicant be denied registration of the trademark for the goods as specified in that application.

Payment of \$300, the requisite filing fee for this opposition, is submitted herewith.

Malouf appoints as its attorney in this proceeding Preston P. Frischknecht, General Counsel, CVB Inc., dba Malouf Fine Linens, 1189 W 1700 N, Bldg B, Logan, UT 84321, to whom all correspondence in this proceeding should be addressed.

DATED January 20, 2014.

Respectfully submitted



Preston P. Frischknecht
General Counsel
CVB Inc dba Malouf Fine Linens
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PROOF OF SERVICE BY MAIL

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant by mailing said copy on January 20, 2013, via electronic mail and hardcopy via First Class Mail, postage prepaid to:

Rory Vitale
JLJ Home Furnishings LLC
4776 Charlotte Hwy
Lancaster, South Carolina 29720-7769
jljhomefurnish@hotmail.com

DATED January 20, 2014.



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